

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.9530 Books and Records

a) General Requirements

- 1) Every person liable for any tax imposed by the IITA shall keep books and records sufficient to substantiate all information reported on any income tax, withholding or information return required under the IITA.
- 2) The books or records required by this Section shall be kept at all times available for inspection by the Department or its duly authorized agents and employees, and shall be retained so long as the contents may become material in the administration of the IITA. Such books and records must be kept in the English language. If a person retains records required to be retained by this Part in both machine-sensible and hardcopy formats, the person shall, upon request, make the records available to the Department in machine-sensible format.
- 3) The Department may require any person, by notice served upon him, to make returns, render statements, or keep specific records as will enable the Department to determine whether such person is liable for tax under the IITA and the correct amount of the tax.

b) What Records Constitute Minimum Requirement

- 1) In General. The records required by this Part shall be kept accurately, but, unless otherwise required by the IITA, this Part or any tax form, no particular form must be maintained for keeping the records. These forms and systems of accounting shall be used to enable the Department to ascertain whether liability for tax is incurred and, if so, the amount of the liability. Every person who is required by this Part, instructions applicable to any tax form, or as otherwise required by the Department, to keep any copy of any return, schedule, statement, or other document shall keep the copy as a part of his records.
- 2) Records prepared by Automated Data Processing Systems (ADP). When an ADP accounting system is used to maintain all or part of a taxpayer's accounting or financial records, the ADP system must include a method of producing legible and readable records that will provide the necessary information for verifying tax liabilities. If a taxpayer retains records required to be retained by this Part in both machine-sensible and hardcopy formats, the taxpayer shall, upon request,

make the records available to the Department in machine-sensible format in accordance with subsection (g)(2) of this Section. An ADP system must not be subject, in whole or in part, to any agreement (such as a contract or license) that would limit or restrict the Department's access to and use of the ADP system on the taxpayer's premises (or any other place where the ADP system is maintained), including personnel, hardware, software, files, indexes, and software documentation. ADP accounting systems encompass all types of data processing systems, stand-alone or networked microcomputer systems, Database Management Systems (DBMS) and systems using Electronic Data Interchange (EDI) technology.

c) Definitions

"Database Management System" or "DBMS" means a software system that creates, controls, relates, retrieves and provides accessibility to data stored in a database.

"Electronic Data Interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

"Hardcopy" means any documents, records, reports, or other data printed on paper.

"Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hardcopy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche or storage-only imaging systems.

"Storage-only imaging systems" means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hardcopy or as an optical image.

d) Recordkeeping Requirements for Machine-Sensible Records

1) General Requirements

A) Machine-sensible records used to establish tax compliance shall be retained by the taxpayer in accordance with the requirements of this Section. The retained records shall provide sufficient information to establish matters required to be shown by a taxpayer in any tax or information returns. The machine-sensible records shall contain sufficient transaction-level detail information so that the details and the source documents underlying the machine-sensible records can be identified and made available to the Department upon request.

B) The retained records should reconcile to the books and the tax returns by establishing the relationship (i.e., audit trail) between the total of the amounts in the retained records to the totals in the books and to the tax returns.

- C) The retained records must be capable of being processed. For purposes of this Section, “capable of being processed” means to be able to retrieve, manipulate, print hardcopy, or produce other output. This term does not encompass any requirement that the program or system that created the computer data be available to process the data unless the process is essential to a tax-related computation.
 - D) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.
 - E) Electronic Data Interchange (EDI)
 - i) Where a taxpayer uses EDI processes and technology, the level of record detail, in combination with other records related to the transaction, must be equivalent to the level of detail contained in an acceptable paper record.
 - ii) The taxpayer may capture the information necessary to satisfy subsection (d)(1)(E)(i) at any level within the accounting system and need not retain the original EDI transaction records, provided the audit trail, authenticity and integrity of the retained records can be established.
- 2) Electronic Data Processing Systems Requirements. The requirements for an electronic data processing accounting system are similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this Section.
- e) Recordkeeping Requirements – ADP Systems Documentation
- 1) Upon the request of the Department, the taxpayer shall provide a description of the business process that created the retained records. The description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the authenticity and integrity of the records.
 - 2) The taxpayer shall be capable of demonstrating:
 - A) the functions being performed as they relate to the flow of data through the system;
 - B) the internal controls used to ensure accurate and reliable processing; and
 - C) the internal controls used to prevent the unauthorized addition, alteration or deletion of retained records.

- 3) The following specific documentation is required for machine-sensible records pursuant to this Section:
 - A) record formats and layouts;
 - B) field definitions (including the meaning of all “codes” used to represent information);
 - C) file descriptions (e.g., data set name); and
 - D) detailed charts of accounts and account descriptions.
 - 4) Any changes to the items specified in subsection (e)(2), together with their effective dates, shall be documented and made available to the Department upon request.
- f) Machine-Sensible Records Maintenance Requirements
- 1) The establishment of records management practices is solely at the discretion of the taxpayer, who ultimately bears the burden of producing records capable of being processed at the time of an examination by the Department. The Department recommends but does not require that taxpayers refer to the National Archives and Record Administration (NARA) standards for guidance on the maintenance and storage of electronic records. The NARA standards may be found at 36 CFR 1234, subpart C (1996).
 - 2) In establishing records management practices, taxpayers should consider, for example, the labeling of records, the security of the storage environment, the creation of back-up copies and their storage location and the use of periodic testing to confirm the continued integrity of the records.
 - 3) The taxpayer’s computer hardware or software shall accommodate the processing of or the extraction and conversion of retained machine-sensible records.
- g) Access to Machine-Sensible Records. The manner in which the Department is provided access to machine-sensible records as required by this Part may be satisfied through a variety of means that shall take into account a taxpayer’s facts and circumstances. Access will be provided in one or more of the following manners:
- 1) A taxpayer may provide the Department copies of the machine-sensible records for use on the Department’s equipment;
 - 2) The taxpayer may arrange to provide the Department with the hardware, software and personnel resources necessary to access and process the machine-sensible records;
 - 3) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access and process the machine-sensible records;

- 4) The taxpayer may convert machine-sensible records to a standard record format specified by the Department on a magnetic medium that is agreed to by the Department. This may include conversion to a different medium (e.g., from mainframe files to microcomputer diskette). These records may be processed on the Department's equipment or at the taxpayer's location;
 - 5) The taxpayer and the Department may agree on other means of providing access to the machine-sensible records.
- h) Taxpayer Responsibility and Discretionary Authority
- 1) In discharging their responsibilities under this Section, taxpayers are empowered to determine which of their machine-sensible records must be retained and which records may be discarded. These determinations require a consideration of all the facts and circumstances, including whether duplicated or redundant records exist.
 - 2) In general, taxpayers should retain the machine-sensible records that are the most direct evidence of the transactions, and have discretion to discard duplicated records and redundant information. In exercising this discretion, the taxpayer should generally retain those records that best facilitate the retrieval and processing of the data during an audit. For example, Departmental records stored in Departmental data files that are duplicated in a central system could be discarded provided that all required information in the Departmental records is contained in the central system and the requirements of this Section are met. Similarly, daily or weekly data files could be discarded if appropriate monthly, quarterly or annual data files with the ability to access appropriate transaction-level records are available.
 - 3) In conjunction with meeting the requirements of this Section, a taxpayer may create files solely for the use of the Department. For example, if a database management system is used, it is consistent with this Section for the taxpayer to create and retain a file that contains the transaction-level detail from the database management system and that meets the requirements of this Section. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.
 - 4) A taxpayer may contract with a third party to provide custodial or management services of the records. The contract shall not relieve the taxpayer of its responsibilities under this Section.
- i) Alternative Storage Media. For purposes of storage and retention, taxpayers may convert hardcopy documents received or produced in the normal course of business and required to be retained under this Section to microfilm, microfiche or other storage-only imaging systems and may discard the original hardcopy documents, provided the conditions of this Section are met. These records are not a substitute for machine-sensible records (e.g., magnetic tapes, magnetic cartridges or magnetic disks) as defined in subsection (c). Documents that may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and

subsidiary ledgers and supporting records of details, such as sales invoices and purchase invoices. Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:

- 1) Documentation establishing the procedures for converting the hardcopy documents to microfilm, microfiche or other storage-only imaging systems must be maintained and made available on request. That documentation shall, at a minimum, contain sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.
 - 2) Procedures must be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the periods they are required to be retained under this Section.
 - 3) All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.
 - 4) Microfiche, microfilm or other storage-only imaging systems records must be indexed, cross-referenced and labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and must be systematically filed to permit the immediate location of any particular record. A posting reference must be on each document and a control log or catalog of the documents must be maintained.
 - 5) Upon request of the Department, a taxpayer must provide facilities and equipment, in good working order, for reading, locating and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging systems.
 - 6) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognized as words or complete numbers.
 - 7) There must not be substantial evidence that the microfilm, microfiche or other storage-only imaging systems lack authenticity or integrity.
- j) Effect on Hardcopy Recordkeeping Requirements
- 1) Hardcopy records may be retained on a recordkeeping medium provided in subsection (i).
 - 2) If hardcopy records are not produced or received or required to be produced or received in the ordinary course of transacting business (i.e., when the taxpayer uses EDI technology), such hardcopy records need not be created.

- 3) Unless hardcopy records are required to be provided or received, hardcopy records generated at the time of a transaction need not be retained if all the details relating to the transaction are subsequently received by the taxpayer in an EDI transaction and are retained by the taxpayer in accordance with this Section.
 - 4) Computer print-outs that are created for validation, control or other temporary purposes need not be retained.
 - 5) Nothing in this Section shall prevent the Department from requesting hardcopy print-outs of retained machine-sensible records. These requests may be made either at the time of an examination or in conjunction with the evaluation described in subsection (k)(2)(G) of this Section.
- k) Department Authorization to Destroy Records Sooner Than Would Otherwise Be Permissible
- 1) In all cases, the Department may, in writing, authorize the destruction of books and records and other papers prior to the expiration of the periods of time during which the taxpayer, except for the written authorization from the Department, is required to keep books and records. The Department may authorize destruction of records if the records are preserved in microfilm, microfiche, other storage-only imaging systems or an electronic data processing system and meet the conditions prescribed in this Section.
 - 2) Record Retention Limitation Agreements
 - A) The Department may, at the request of the taxpayer, enter into a record retention limitation agreement with a taxpayer that may modify or waive any of the specific requirements of this Section. A taxpayer's request for an agreement must specify which records (if any) the taxpayer proposes not to retain and provide the reasons for not retaining those records as well as proposing any other terms of the requested agreement. The taxpayer shall remain subject to all the requirements of this Section that are not modified, waived or superseded by a duly approved record retention limitation agreement.
 - B) The Department may revoke or modify a record retention limitation agreement or any provision of an agreement.
 - C) The record retention limitation agreement shall specifically identify which of the taxpayer's records the Department has determined are not necessary for retention and which the taxpayer may discard. The agreement shall also clearly state each authorized variance, if any, from the normal provisions of this Section. The agreement shall also document other understandings reached with the Department, which may include, but not be limited to:
 - i) the conversion of files created on an obsolete computer system;

- ii) restoration of lost or damaged files and the actions to be taken;
 - iii) use of taxpayer computer resources.
- D) The Department shall consider a taxpayer's request for a record retention limitation agreement and notify the taxpayer of the actions to be taken. The Department's decision to enter or not to enter into a record retention limitation agreement shall not relieve the taxpayer of the responsibility under this Section to keep adequate and complete records necessary to a determination of tax liability.
- E) Unless otherwise specified, an agreement shall not apply to accounting and tax systems added subsequent to the effective date of the agreement. All machine-sensible records produced by a subsequently added accounting or tax system shall be retained by the taxpayer in accordance with this Section until a new agreement is entered into with the Department.
- F) Unless otherwise specified, an agreement shall not apply to any subsidiary or other entity that, subsequent to the effective date of a record retention limitation agreement, is acquired by the taxpayer. All machine-sensible records produced by the acquired subsidiary shall be retained pursuant to this Section and any record retention limitation agreement that may have been in effect for the acquired subsidiary ("pre-acquisition agreement"). The provisions of the pre-acquisition agreement shall continue to apply to the acquired subsidiary until revoked or modified by the Department or a new agreement applying to the acquired subsidiary is entered.
- G) To evaluate the propriety of a record retention limitation agreement, the Department may conduct an evaluation of the taxpayer's record retention practices. The evaluation may include a review of the taxpayer's relevant data processing and accounting systems, including systems using EDI technology.
 - i) The Department shall notify the taxpayer of the results of any evaluation, including acceptance or rejection of any proposals made by the taxpayer (e.g., to discard certain records) or any changes considered necessary to bring the taxpayer's practices into compliance with this Section.
 - ii) The evaluation of a taxpayer's records retention practices is not directly related to the determination of tax reporting accuracy for a particular period or return, nor is the evaluation an "audit".

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